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4 Attorney for Plaintiff
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6
7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF NEVADA**

9 CARY JANEWAY,)
10)

Plaintiff,)
11)

vs.)

12 BOYD GAMING CORPORATION,)
13 dba THE ORLEANS HOTEL AND)
CASINO,)

14 Defendant.)
15)
16
17

COMPLAINT
(Jury Demanded)

18 COMES NOW Plaintiff and complains of Defendant as follows:
19

20 I.

21 This is an employment discrimination action. The Plaintiff, a 44 year old
22 female who is a qualified individual with a disability, alleges she was subjected to
23 different terms and conditions of employment because of her sex, age, and
24 disability. She further alleges that she has been retaliated against because she
25 engaged in protected activity by filing her initial charge of discrimination.
26 Jurisdiction and venue are based upon the ADA, Title VII and the ADEA.
27
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II.

The Plaintiff is a resident of Clark County, Nevada and is a qualified individual with a disability. The Defendant is a Nevada corporation which owns and operates the Orleans Hotel & Casino in Clark County, Nevada.

III.

The Plaintiff has worked at the Orleans Hotel since 1999, most recently as a dual rate dealer. After she requested an accommodation for her disability her seniority was adversely changed resulting in her being placed on the extra board. This resulted in a demotion costing the Plaintiff substantial economic loss.

IV.

The Plaintiff filed a charge of discrimination alleging that she was subjected to adverse treatment because of her age, sex and disability. In retaliation for filing that charge was given a written warning. The Plaintiff the amended her charge of discrimination to include this act of retaliation. A copy of the Plaintiff's charge is attached hereto and the facts asserted therein are hereby incorporated by reference.

V.

A right to sue letter based upon her charge has been obtained and this lawsuit has been filed within 90 days of receipt of that letter.

VI.

As a direct result of the Defendant's discriminatory acts the Plaintiff has suffered financial loss, physical and emotional injuries and emotional distress based upon those injuries. The above described acts of Defendant were willful and done with a conscious disregard for Plaintiff's federally protected rights.

WHEREFORE Plaintiff prays for the following relief:

1. Backpay, benefits, seniority and prejudgment interest;
2. Compensatory damages in the amount of \$300,000;
3. Punitive damages in the amount of \$300,000;

1 4. Attorney's fees and costs of suit; and

2 5. Such other and further relief as the Court may wish to entertain.

3 DATED this 8th day of October, 2010.



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7 Las Vegas, Nevada 89101
8 Attorney for Plaintiff
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EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☒ FEPA

0318-10-0099L

☒ EEOC

34B-2010-00126

Nevada Equal Rights Commission

and EEOC

Name (indicate Mr., Ms., Mrs.)

State or local Agency, if any

Miss Cary Janeway

Home Phone (Incl. Area Code)

Date of Birth

(702) 586-2511**07-07-1965**

Street Address

City, State and ZIP Code

6629 Pheasant Moon Street, Las Vegas, NV 89148

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

THE ORLEANS HOTEL AND CASINO

No. Employees, Members

Phone No. (Include Area Code)

500 or More**(702) 365-7111**

Street Address

City, State and ZIP Code

4500 W. Tropicana Ave, Las Vegas, NV 89103

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE☐ COLOR☒ SEX☐ RELIGION☐ NATIONAL ORIGIN☒ RETALIATION☒ AGE☒ DISABILITY☐ GENETIC INFORMATION☐ OTHER (Specify)DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest**06-27-2009****03-10-2010**☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

AMENDED CHARGE

THIS CHARGE IS AMENDED TO INCLUDE RETALIATION AS AN ADDITIONAL BASIS. ON APRIL 2, 2010, I WAS CALLED INTO THE SHIFT MANAGERS OFFICE AND PRESENTED WITH A WRITTEN WARNING CONCERNING, NOT MY CLOCK-IN'S, RATHER WHEN I ARRIVED IN MY ASSIGNED ASESECTION AS A DAUL RATE SUPERVISOR ANS WHEN I RETURN FROM MY SECOOND BREAK.

I BELIEVE THAT IS RETLAATION FOR FILING THIS COMPLAINT.

Respondent has discriminated against me because of my age, 44, sex, Female, and my disability by denying me equal terms and conditions of employment and discharging me. I filed my complaint with the Nevada Equal Rights Commission on May 20, 2009.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Date

Charging Party Signature

EEOC Form 5 (11/09)

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☒ EEOC

34B-2010-00126

Nevada Equal Rights Commission

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I worked for the Respondent since May 29, 1999. I am currently employed in the position of dual rate dealer. Since June 27, 2009, the Respondent has denied me equal terms and conditions of employment. On June 27, 2009, I reported for work. I discovered that my seniority had changed from #20 to #70 on the schedule. This placed me second from the bottom on the schedule exposing me to extra board hours. I have no set hours And as far as my seniority as a Dual-Rate, my seniority dropped from #1 to #8.

I complained to Human Resources, but I was told nothing could be done, because it was a management decision.

It is my contention that I was subjected to these adverse actions, because the Respondent was aware that I was on FMLA as an accommodation to my disability. In addition, I was forced to take a demotion because management deleted my shift and hours as I am a female over the age of forty.

I insist on filing this complaint because the Respondent has subjected me to unfair and unjust treatment.

I believe the Respondent's actions violated The Age Discrimination in Employment (ADEA); Title VII of the Civil Rights Act of 1964, as amended; Americans with Disabilities Act, as amended (ADAAA); and Nevada State Law.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Date

Charging Party Signature

P. 3

P. 3

APR-11-2010 09:30 PM

AUG-13-2010 05:45 PM